

RETURN

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TO AN ADDRESS OF THE HOUSE OF COMMONS, dated the 29th November, 1909, calling for a copy of all memorials, reports, correspondence and documents in the possession of the Government, relating to the reduction of the representation in the House of Commons, of the several provinces of Nova Scotia, New Brunswick and Prince Edward Island, and of all correspondence with the Governments of these provinces with regard to the restoration to the said provinces of such representation as they respectively had at the time of their becoming provinces of this Dominion.

CHAS. MURPHY,
Secretary of State.

RETURN to an address of the House of Commons of 29th and 30th November, 1909, for copies of all memorials, reports, correspondence, etc., relating to the representation in the House of Commons of the several provinces of New Brunswick, Nova Scotia and Prince Edward Island.

P. C. No.	Subject.
451 O.C. 14 April, 1903.....	Approving Report of Minister of Justice of Canada, on Memorial Executive Council of New Brunswick, <i>re</i> representation.
615 O.C. 17 April, 1903.....	Reference to Supreme Court for hearing and consideration of question of readjustment of representation of New Brunswick and Nova Scotia.
1451 L.....	Resolution of Legislative Assembly of Prince Edward Island with reference to representation.
809 O.C. 16 May, 1903.....	Reference to Supreme Court for hearing and consideration of question of representation of Prince Edward Island.
994 1903.....	Opinion Supreme Court of Canada on question of representation in House of Commons of Prince Edward Island.
28 1905.....	Letter, Premier New Brunswick <i>re</i> costs incurred in "The Representation Case," and opinion Minister of Justice of Canada in regard thereto.
486M. O.C. 28 April, 1905.....	Address Legislative Assembly of New Brunswick regarding representation and reply thereto.
574M.....	Address Legislative Assembly of Prince Edward Island asking fulfilment Terms of Union, and address with reference to representation.

P.C. 451.

Certified copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor General on the 14th April, 1903.

The Committee of the Privy Council have had under consideration a despatch dated 18th March, 1903, from the Lieutenant Governor of New Brunswick, transmitting a copy of a Minute of his Executive Council respecting the readjustment of the representation of the provinces in the House of Commons.

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The Committee have also under consideration a Report hereto attached dated 6th April, 1903, from the Minister of Justice upon the subject.

The Committee concurring in the Report of the Minister of Justice advise that a copy of this Minute, if approved, be forwarded to the Lieutenant Governor of the province of New Brunswick.

RODOLPHE BOUDREAU,
Clerk of the Privy Council.

6th April, 1903.

To His Excellency the Governor General in Council:—

The undersigned has had under consideration the approved Minute of the Executive Council of New Brunswick, a copy of which was transmitted to the Secretary of State with His Honour the Lieutenant Governor's despatch of the 18th ultimo, and in which the contention is made that section 51 of the British North America Act is subject to an interpretation which would save to the province of New Brunswick its present representation in the House of Commons.

The section referred to provides for the readjustment after each census of the representation of the several provinces in that house. The general rule prescribed is that while Quebec is to have the fixed number of sixty-five members the representation of the other provinces is to be readjusted on the completion of each decennial census so that the number of members assigned to each shall bear the same proportion to its population as the number sixty-five bears to the population of Quebec.

Subsection 4 of the section provides that on any such readjustment the number of members for a province shall not be reduced unless the proportion which the number of the population of the province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one-twentieth part or upwards.

Section 52 provides that the number of members of the House may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the provinces prescribed by this Act is not thereby disturbed.

The contention on the part of New Brunswick is that in subsection 4 of section 51 the word 'Canada' means now, as it did when the Act was passed, not the Canada of to-day, but the four original provinces of Ontario, Quebec, Nova Scotia, and New Brunswick, and that the proportions referred to in the section are to be estimated with regard to the aggregate population of those provinces and not with regard to the population of Canada as it now exists.

If that were the correct interpretation, calculation shows that none of the four original provinces would sustain any loss of representation as the result of the census of 1901, for in the case of each of them the proportion which the population of the province bore to the number of the aggregate population of the four provinces according to the census of 1891 is diminished by less than one-twentieth part according to the results of the recent census. It appears, however, that even if the suggested interpretation is correct the province of Prince Edward Island would not be saved from the loss of a member, the diminution in the case of that province being greater than one-twentieth of the proportion of 1891.

The undersigned is of opinion, however, that sub-section 4 is not open to the construction now sought to be placed upon it.

Section 146 of the British North America Act, 1867, provides that it shall be lawful for the Queen in Council on addresses from the Houses of Parliament of Canada and of the legislatures of the provinces or colonies concerned to admit Newfoundland and British Columbia into the Union, and on addresses from the Houses of Parliament of Canada, to admit Rupert's Land and the North Western Territory, or either of them, into the Union, on such terms and conditions in each case as in the addresses

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expressed and as the Queen thinks fit to approve, subject to the provisions of the Act, and that the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

This provision has been acted upon in the cases of British Columbia and Prince Edward Island, the terms of union with each province having by virtue of section 146 the force and effect of statutes of the United Kingdom. Rupert's Land and the North Western Territory have also been admitted into the Union under that section, but not as a province or provinces, and the province of Manitoba has been carved out of Rupert's Land by legislation of the Parliament of Canada, which also by virtue of the provisions of the British North America Act, 1867, has practically the force and effect of an imperial statute.

By the terms of Union with British Columbia (O.C. 16th May, 1871), it is provided amongst other things as follows:—

10. 'The provisions of the 'British North America Act, 1867, shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and effect one and not the whole of the provinces now forming the Dominion, and except in so far as the same may be varied by this Minute), be applicable in the same way and to the like extent as they apply to the other provinces of the Dominion, and as if the colony of British Columbia had been one of the provinces originally united by the said Act.

8. 'British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the British North America Act, 1867.'

The terms of Union with Prince Edward Island (O.C. 26th June, 1873; statutes of 1873, p. ix) contain a provision to precisely the same effect as clause 10 of the Terms of Union with British Columbia and the following provision as to representation:—

'That the population of Prince Edward Island having increased by 15,000 or upwards, since the year 1861, the Island shall be represented in the House of Commons of Canada by 6 members; the representation to be readjusted from time to time under the provisions of the British North America Act, 1867.'

And the Manitoba Act (33 V., C. 3), which, like the Terms of Union, has the force of an Imperial Act, also contains a provision (section 2) to all present intents and purposes the same in effect as clause 10 of the British Columbia terms of Union. It also contains provision for the present representation of Manitoba in the Senate and House of Commons, and for the readjustment of its representation in the latter house according to the provisions of the 51st section of the British North America Act, 1867.

The Terms of Union and the Manitoba Act are to be looked upon and construed as in effect Imperial Acts amending the British North America Act, 1867. It will be observed that in each of them it is provided that the provisions of the British North America Act, 1867, except those answering a certain description which section 51 does not answer, shall be applicable to the new province in the same way and to the same extent as they apply to the other provinces of the Dominion, and as if the new province had been one of the provinces originally united by the said Act. Section 51 is also in each case specially declared to be applicable, subject to exceptions which for the present purpose are immaterial.

The words underlined seem to dispose of the suggested view as to the construction of the Act as untenable. Suppose one of the admitted colonies had been one of the provinces originally united, how must section 51 have then been read and construed. In the opening paragraph 'four provinces' would have been 'five provinces'; the word 'province' throughout the section would have applied to the supposed additional province as well as the others, and can it be doubted that the word 'Canada' in paragraph 4 would have included all five provinces. The section then is to apply in that

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way to the new province, but it is also provided that it shall apply to the new province in the same way and to the same extent as it applies to the other provinces of the Dominion, and this involves the converse that it applies in the same manner to the other provinces as it does to the new one.

Upon perusing the Act it will be seen that upon the admission of each of the new provinces into the Union the expression 'Canada' and 'province' throughout the Act must necessarily be given an interpretation different from that which they bore in the original Act and must be taken to apply to and include the newly admitted provinces, and the undersigned does not think that there is any sufficient reason for a different interpretation of them as they are used in sections 51 and 52.

Such a provision as the proposed construction involves would also be incongruous and unnatural under the circumstances and can hardly be taken to have been intended. Where new partners are admitted into the Union with practically equal rights one would expect to find the relation of the population of each province to that of the whole Dominion to govern its representation in the popular chamber, and not its relation to the aggregate population of four only out of the seven provinces, or as time goes on a still larger number of provinces of which those newly admitted are likely in respect of population to become increasingly important members of the confederation.

For these and other reasons the undersigned is, as above stated, of opinion that the construction of the Act suggested by the New Brunswick government is inadmissible.

Humbly submitted,

C. FITZPATRICK,

Minister of Justice.

GOVERNMENT HOUSE,

FREDERICTON, N.B., 18th March, 1903.

The Honourable The Secretary of State, Ottawa.

Sir,—Herewith please find enclosed a copy of a Minute of Council in *re* question of the readjustment of the representatives of the provinces in the House of Commons.

Would you kindly have the same transmitted to His Excellency the Governor General.

J. B. SNOWBALL,

Lieutenant Governor.

The Committee of the Executive Council have had under consideration the results of the recent census of Canada, as bearing upon the question of the readjustment of the representation of the provinces in the House of Commons, and think it desirable that the attention of the Dominion Government should be called to the following provisions of the British North America Act.

The Committee observes that by section 51 it is provided that, on the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four provinces shall be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:—

1. Quebec shall have the fixed number of sixty-five members.
2. There shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of Quebec, (so ascertained).

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4. On any readjustment, the number of members for a province shall be reduced, unless the proportion which the number of the population of a province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province, is ascertained at the then latest census to be diminished by one-twentieth part, or upwards.

The Committee of Council are of the opinion that in construing paragraph (4) of this section the words 'aggregate population of Canada' mean the population of the four provinces of Canada, referred to in the earlier part of the section, and which by the Act constituted the Confederation.

Section 146 makes provision for the admission of Newfoundland, Prince Edward Island, British Columbia and Rupert's Land, and the North Western Territory, or either of them, into the Union, on such terms and conditions, in each case, as may be agreed on, and as the Queen thinks fit to approve, subject to the provisions of the Act.

Section 147 provides for representation of the new provinces in the Senate, but no provision is made for their representation in the House of Commons.

It will be observed that in connection with the admission of other provinces it was recognized that special provision could be made for their representation. Thus Prince Edward Island was admitted with a larger representation than it would have been entitled to if based on the proportion of its population to that of Quebec. The same remark applies to Manitoba, which was admitted with a representation of four members.

The proportion which the number of the population of New Brunswick bore to the number of the aggregate population of the four Provinces of Canada at last preceding readjustment of the number of its members, has not according to the census of 1901, been diminished by one-twentieth part. Indeed, its relative proportion has not diminished at all, but has increased.

If the view of the Committee as to the proper interpretation of paragraph (4) of section 51 is correct, it is clear that there should be no reduction in the representation from New Brunswick.

The Committee of Council therefore recommend that His Honour, the Lieutenant Governor, be moved to transmit a copy of this Minute to His Excellency the Governor General, for the consideration of His Excellency's Advisers.

Province of New Brunswick:

I, Joseph Howe Dickson, Clerk of the Executive Council of said province, do hereby certify that the foregoing is a true copy of a Minute of Council passed by the said Executive on the 12th day of March, instant. Dated March 18th 1903.

JOS. HOWE DICKSON,

Clerk of the Executive Council of New Brunswick.

P.C. 615.

Certified copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor General on the 17th April, 1903.

On a Report dated 15th April, 1903, from the Minister of Justice, submitting that in connection with the proposed readjustment of the representation in the House of Commons of the provinces of the Dominion consequent upon the last decennial census, the province of New Brunswick supported by the province of Nova Scotia contends for a construction of section 51 of the British North America Act, 1867, different from that which has been heretofore applied and which is adopted by Your Excellency's Advisers. These provinces have, therefore, asked that a reference be made to the Supreme Court of Canada for a determination of the question in difference.

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The Minister therefore recommends that the following question suggested by the Government of New Brunswick, and approved as the Minister of Justice is informed by the Government of Nova Scotia, be referred to the Supreme Court for hearing and consideration, pursuant to the authority of the Supreme and Exchequer Court Acts, as amended by the Act 54-55 Victoria, Chapter 25, intituled 'An Act to amend Chapter 135 of the Revised Statutes, intituled 'An Act respecting the Supreme and Exchequer Courts,' viz:—

In determining the number of representatives in the House of Commons to which Nova Scotia and New Brunswick are respectively entitled after each decennial census, should the words 'aggregate population of Canada' in sub-section 4 of section 51 of the British North America Act, 1867, be construed as meaning the population of the four original provinces of Canada, or as meaning the whole population of Canada including that of provinces which have been admitted to the Confederation subsequent to the passage of the British North America Act?

The Committee submit the same for approval.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

P.C. 1451L.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, 20th April, 1903.

The Honourable The Secretary of State, Ottawa.

Sir,—I have the honour to transmit to you herewith for the consideration of His Excellency the Governor General in Council a Resolution passed by the Legislative Assembly of the Province of Prince Edward Island with reference to the representation of this province in the Federal Parliament, with the desire that the matter mentioned in said Resolution may be referred to the Supreme Court of Canada for hearing and consideration, and that the necessary steps be taken by His Excellency's Advisers to have the said Resolution carried into effect.

P. A. McINTYRE,

Lieutenant Governor.

RESOLUTION.

Passed by the Legislative Assembly of Prince Edward Island relative to Increased Representation in the Federal Parliament.

Whereas at the last session of this House a Resolution was passed in the following words:—

Whereas under the provisions of 'The British North America Act,' 1867, section 146 an Imperial Order in Council was passed by which this province was admitted into the Union of the Dominion of Canada upon the terms and conditions expressed in addresses from the Houses of the Legislature of the then colony of Prince Edward Island and of the Houses of Parliament of Canada attached as a schedule to said Order in Council.

And whereas each of the said Addresses contains (among other sections) the following:—

'That the population of Prince Edward Island having been increased by fifteen thousand or upwards since the year 1861, the Island shall be represented in the House

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of Commons of Canada by six members; the representation to be readjusted from time to time under the provisions of 'The British North America Act, 1867.'

And whereas in order to arrive at the real intention of the several Houses when said section was adopted and to give to the words of said section their intending meaning, it is necessary to read such section in the light of the Conferences which led to its adoption, and the correspondence between the delegates assembled at such Conference and their respective Governments.

And whereas in 1864, at the Conference held at Charlottetown in this province it was contended that according to the method of ascertaining the number of representation any province under the provisions, afterwards incorporated in 'The British North America Act, 1867,' section 61, this province was entitled to only five members and the delegates from this province to such Conference insisted that if the province were to enter the Union a representation of six members at least would be a condition precedent as appears from the schedule hereto annexed, marked 'A' which contains abstracts from the Addresses of the delegates of this province at such Conference.

And whereas at the Conference in 1873 at which the terms of Union were agreed upon the same question of our representation was raised and delegates from other provinces again insisted that our population only entitled us to five members in the Parliament of Canada, and this question seems to have been one of the chief contentions with reference to the entry of this province into the Union.

And whereas at the said Conference in 1873, our delegates refused to agree to the terms of Union unless and until the question of representation allowing this province six members was agreed to.

And whereas the said Conference after long discussion conceded to this province a representation of six members as appears by the telegrams hereto annexed marked 'B' exchanged on that occasion between Hon. Mr. Haythorne a delegate from this province and the then Lieutenant Governor.

And whereas it would appear from such correspondence and telegrams and from the reports of such Conferences read with the above section of our terms of Union that inasmuch as in 1861, our population was eighty thousand eight hundred and fifty-seven and that it 'having been increased by fifteen thousand or upwards' making our population ninety-five thousand eight hundred and fifty-seven, such population of ninety-five thousand eight hundred and fifty-seven was adopted as a standard which gives us six members, and that any readjustment as mentioned in said section must be construed to mean that so long as this province retains at least ninety-five thousand eight hundred and fifty-seven of a population we should have at least six members and should not be reduced until the population decreases to below that number.

And whereas it clearly appears to the House from the correspondence and telegrams above referred to and from the addresses of the delegates to the different Conferences that a compact was entered into with this province when we entered the Union that unless and until our population decreased to below ninety-five thousand eight hundred and fifty-seven no decreases in our representation should be made.

And whereas at the readjustment in representation of the whole Dominion after the decennial census in 1891, such compact was disregarded and the representation of this province was reduced from six to five, such reduction being based on the unit of representation mentioned in section 51 of said British North America Act, 1867, which we believe does not in its entirety refer to Prince Edward Island.

And whereas by the decennial census had and taken in the year 1901, our relative population is further decreased, and if the rule adopted in 1891 is again followed our representation in the Commons of Canada will be further lessened.

And whereas considering the immense area and great possibilities and probable growth of Canada and particularly of a large unsettled part of the Province of Quebec, which controls the unit by the application of the principal adopted in 1891 the representation of this Province may within a few decades be decreased even to one member,

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a state of affairs never intended and never anticipated by those who framed our terms of Union.

And whereas it appears from the addresses of delegates at the several Conferences above referred to, that the delegates of this province made it an expressed condition precedent to our entry into the Union, that, notwithstanding the fact that according to the unit formed under section 51 of 'The British North America Act, 1867,' our population would only entitle us to a representation of five members we should have at least six members; and the reasons (expressed in the extracts of the Addresses in schedule 'A' hereto) which led out delegates to insist at that time as a minimum of six members apply still with increased force.

Therefore resolved that in the opinion of this House this province should have restored their representation of six members according to the compact entered into at the time this province entered the Union.

Further resolved that in case the opinion of this House as to the construction of the above mentioned section of our terms of Union be not concurred in, representations be made to the Home government through the proper channels asking that the said terms of Union be so amended as to carry into effect the compact entered into with this province when it entered the Union.

SCHEDULE 'A.'

Extracts from Speeches at Conference of 1864.

Mr. HAVILAND.—'Prince Edward Island would rather be out of Confederation than consent to this motion. We would have no status, only five members out of one hundred and ninety-four, would give the Island no position.'

Mr. PALMER.—'Representation by population is not applicable when a certain number of provinces are throwing up their self-government and individuality.' When a colony surrenders that right she should have something commensurate in the Confederation, why give up so great certainties when we have only a feeble voice. I never understood that any proposition at Charlottetown was to be binding as to representation by population.'

Mr. WHELAN.—'I do not think, however, I could say that I was satisfied with the representation of five members in the Federal House of Commons, we are in an isolate position, our resources are not large, and our people would not be content to give up their present benefits for a representation of five members. It may be said that Confederation will go on without Prince Edward Island, and that we shall eventually be forced in. Better, however, that than we should willingly go into the Confederation with that representation.'

Colonel GREY.—'I am instructed by my co-delegates to say that the provision of five members is unsatisfactory. Prince Edward Island is divided longitudinally into three counties, we cannot divide three counties into five members.'

Mr. COLES.—'Mr. Galt has proposed six members for Prince Edward Island, I approve that rather than Mr. Brown's motion, because it allows us to give our counties two members each.'

Mr. POPE.—'I agree in all that has been said by Colonel Grey and Mr. Coles. But the circumstances of Prince Edward Island are such that I hope the Conference will agree to give us such a number as we can divide amongst our constituencies. Nature as well as the original settlement of the Island has made three counties and it would give us too much difficulty if we had to adjust five members to three counties. I cannot ask it as a matter of right but as one of expediency, as one without which it impossible for us to carry the measure in Prince Edward Island; I therefore ask for six members.'

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SCHEDULE 'B.'

Telegram from Robert P. Haythorne to Lieutenant Governor Robinson, dated February 26th, 1873.

'Held two Conferences. Increase of annual allowance. Probable yield six representatives.'

Telegram from Robert P. Haythorne to Lieutenant Governor Robinson, March 6th, 1873.

'Highly probable get six representatives, try and send reply Council as soon as possible.'

Telegram from Lieutenant Governor Robinson to Robert Haythorne.

'Council concur in advising dissolution. We hope six representatives will be conceded.'

Telegram to Hon. Edward Palmer from Robert P. Haythorne, March, 8th, 1873.

'Except modifications stated and interest difference old debt better terms allowed. Six members conceded.'

And whereas a Committee of the Executive Council of this province was by our government delegated to wait upon the government of the Dominion of Canada to press upon them the views of this province as to the question of provincial representation in the Federal Parliament as set forth in said Resolution.

And whereas our government has in accordance with the representations of said delegation obtained the consent of the said government of the Dominion of Canada to have the said matter referred to the Supreme Court of Canada under the provisions of an Act of the Parliament of Canada passed in the 38th year of Her late Majesty's reign, Chapter 11, intituled 'The Supreme and Exchequer Court Act.'

Therefore resolved that this House is of opinion that the said matter should be referred to the said Supreme Court.

Further resolved that an humble request be made through the proper channels that His Excellency the Governor General in Council be pleased to refer the said matter to the said Supreme Court of Canada for hearing or consideration under the provisions of the said Act.

The above Resolution was passed by the Legislative Assembly of the province of Prince Edward Island on the 14th day of April, A.D., 1903. Certified.

SAMUEL E. REID,

Speaker Legislative Assembly.

R. H. MONTGOMERY,

Clerk Legislative Assembly.

LEGISLATIVE ASSEMBLY CHAMBER,

Prince Edward Island, 20th April, 1903.

P.C. 809.

Certified copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor General on the 16th May, 1903.

On a Memorandum dated 12th May, 1903, from the Minister of Justice, submitting that in connection with the proposed readjustment of the representation in the House of Commons of the provinces of the Dominion consequent upon the last decennial census, the province of Prince Edward Island contends that its representation in the House of Commons is not liable to be reduced below six although the application of the provisions of section 51 of the British North America Act, 1867, would, in view of the census returns, result in a reduction.

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The Minister states that he does not agree with the view advocated by the government of Prince Edward Island and the province has asked that a reference be made to the Supreme Court of Canada for a determination of the question in difference.

The Minister therefore recommends that the following question, suggested by the government of Prince Edward Island be referred to the Supreme Court of Canada for hearing and consideration, pursuant to the authority of the Supreme and Exchequer Courts Act, as amended by the Act 54-55 Victoria, Chapter 25, intituled 'An Act to amend Chapter 135 of the Revised Statutes, intituled 'An Act respecting the Supreme and Exchequer Courts,' viz:—

'Although the population of Prince Edward Island as ascertained at the census of 1901, if divided by the unit of representation ascertained by dividing the number of 65 into the population of Quebec is not sufficient to give six members in the House of Commons of Canada to that province, is the representation of Prince Edward Island in the House of Commons of Canada, liable under the British North America Act, 1867, and amendments thereto and the terms of union of 1873 under which that province entered Confederation, to be reduced below six, the number granted to that province by the said terms of Union of 1873?'

The Committee submit the same for approval.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

P.C. 994.

IN THE SUPREME COURT OF CANADA.

Monday the eighth day of June, A.D., 1903.

PRESENT:—

The Honourable Sir Henri Elzear Taschereau, Knight, Chief Justice.

"	"	Robert Sedgewick,
"	"	Desire Girouard,
"	"	Sir Louis Henry Davies,
"	"	Wallace Nesbitt.

In the matter of a certain question referred by His Excellency the Governor General, in pursuance of an Order in Council approved by His Excellency on the sixteenth day of May, A.D., 1903: Subject: Representation in the House of Commons of Prince Edward Island.

His Excellency the Governor General in Council, by an Order in Council bearing date the sixteenth day of May, in the year of our Lord one thousand nine hundred and three, passed pursuant to the Revised Statutes of Canada, Chapter 135, as amended by 54-55 Victoria, Chapter 25, having referred to the Supreme Court of Canada for hearing and consideration on the following question, namely:—

'Although the population of Prince Edward Island, as ascertained at the census of 1901, if divided by the unit of representation ascertained by dividing the number of 65 into the population of Quebec is not sufficient to give six members in the House of Commons of Canada to that province, is the representation of Prince Edward Island in the House of Commons of Canada, liable under the British North America Act, 1867, and amendments thereto and the terms of Union of 1873 under which that province entered Confederation, to be reduced below six, the number granted to that province by the said terms of Union of 1873.'

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And the said question having come before this Court for hearing on the second day of June in the year of our Lord one thousand nine hundred and three, in the presence of the Honourable Arthur Peters, Attorney General for Prince Edward Island, A. B. Aylesworth, K.C., and Mr. Williams, who appeared on behalf of the province of prince Edward Island, and E. L. Newcombe, K.C., Deputy Attorney General for Canada, who appeared on behalf of the Dominion of Canada, whereupon and upon hearing what was alleged by counsel aforesaid this Court directed that the matter of the said Reference should stand over for consideration, and the same having come on before this Court this day, this Court did answer the said question in the affirmative; and the reason therefor will appear from the opinion delivered by the Chief Justice, concurred in by Mr. Justice Sedgewick, Mr. Justice Girouard, Mr. Justice Davies and Mr. Justice Nesbitt, hereunto annexed.

All of which is respectfully certified under the seal of the Supreme Court of Canada.

E. R. CAMERON,

Registrar.

The Chief Justice:—Under the provisions of the Supreme Court Act as amended by the Act 54-55 Victoria, Chapter 25, the following question has been referred to the Court by the Governor General in Council:

‘Although the population of Prince Edward Island, as ascertained at the census of 1901, if divided by the unit representation ascertained by dividing the number of 65 into the population of Quebec is not sufficient to give six members in the House of Commons of Canada to that province, is the representation of Prince Edward Island in the House of Commons of Canada, liable under the British North America Act, 1867, and amendments thereto and the terms of Union of 1873 under which that province entered Confederation, to be reduced below six, the number granted to that province by the said terms of Union of 1873?’

The province of Prince Edward Island contends that its representation in the House of Commons of Canada is not liable to ever be reduced below six members. That contention is based upon the 12th resolution under which the province, in 1873, was admitted by an Imperial Order in Council into the Union under the provisions of the one hundred and forty-sixth section of the British North America Act. That resolution reads as follows:—

‘That the population of Prince Edward Island having been increased by fifteen thousand or upwards since the year 1861, the Island shall be represented in the House of Commons by six members; the representation to be readjusted from time to time under the provisions of the British North America Act.’

‘In my opinion, the province’s contention is unfounded. It may well be that the framers of the British North America Act have not foreseen or provided for every possible eventuality in the respective positions of the different provinces of the Dominion, as to population or other matters; it may be that some of the provinces would have refused to join the Union had they foreseen all the results that their adhesion to it is now ascertained to carry. But with such considerations we are not here concerned. On the Statute and on the Order in Council of 1873 (which has to be construed as a statute), we must base our answer to the question submitted. The negotiations that preceded both or each of them are merged in the statute and the Order in Council. Now, it has to be taken as a settled proposition, as far as this Court is concerned, by the opinion we lately delivered on the reference concerning New Brunswick and Nova Scotia (ante-page) that the representation in the Federal House of Commons is, as the fundamental basis in that respect of the Constitution, based upon population. I need not here do more than refer to the reasoning upon which we reached that conclusion. The province of Prince Edward Island’s contention, that it occupies an exceptional position in this regard within the Union, and that it is entitled to a larger

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representation comparatively in the House of Commons than the other provinces thereof, cannot prevail. It was provisionally that it was given six members, till its representation was re-adjusted with that of the other provinces, as provided for by section 51 of the British North America Act. The resolution in question must be read as if the words 'in the first instance' were inserted therein after the words 'represented.' Otherwise, the words that follow, 'the representation to be re-adjusted from time to time under the provisions of the British North America Act,' would have no meaning whatever. The province would read them out of the resolution. And that cannot be done. They have to be read as if incorporated in a statute, and must be construed as meaning that the representation of the province shall be re-adjusted after every decennial census, as provided for by section 51 of the British North America Act, its representation, in the meantime, to be composed of six members. That section 51 must now be read as if the words 'the four provinces' in the first paragraph thereof were replaced by the words 'all the provinces.' There is nothing that can have any bearing whatever on the solution of the question submitted in the assertion on the part of the province that it is only upon the understanding that its representation in the House of Commons should never be reduced below six members that it consented to come into the Union. That cannot prevail as an argument. The rest of the Dominion are just as entitled to assert that they would not have admitted the province in the Union had it insisted, as it now would do, upon more favourable terms than the other provinces in the matter of representation in the House of Commons.

I would answer the question in the affirmative; that is to say, I am of opinion that as by the Federal census of 1901, the population of Prince Edward Island divided by the unit of representation ascertained by dividing the number of 65 into the population of Quebec is not sufficient to give six members in the House of Commons to that province, the representation of that province must be re-adjusted and reduced proportionately to population as provided for by section 51 of the British North America Act.

I concur.

H. E. TASCHEREAU, C.J.,
ROBT. SEDGEWICK, J.,
D. GIROUARD, J.,
L. H. DAVIES, J.,
WALLACE NESBITT, J.

P.C. 28, 1905.

EXECUTIVE COUNCIL NEW BRUNSWICK.

FREDERICTON, N.B., November 5th, 1904.

The Right Honourable Sir Wilfrid Laurier, K.C.M.G., Premier, etc., Ottawa.

SIR,—I am desired by the Executive Council to request that your government will favourably consider the question of paying the costs incurred by the province of New Brunswick in connection with the argument before the Supreme Court of Canada and the Judicial Committee of the Privy Council of the Representation Case, so called.

As you are aware, the question turned upon the true interpretation of the word 'Canada' in sub-section (4) of section 51 of the British North America Act; which section provides that the representation of the four provinces shall be re-adjusted from time to time in manner therein specified; sub-section (4) providing that there shall be no reduction of representation if the proportion of the population relatively to the aggregate population of Canada has not, since the previous re-adjustment, been diminished by one-twentieth or upwards.

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The contention on the part of the province was, that as the British North America Act was making no provision for representation of new provinces or of the territories, the word 'Canada' in sub-section (4) should, as respects the representation of the four original provinces, be held to mean such four provinces. It was also our view that if we were wrong in this contention, it would, at all events, be a proper interpretation of the section to exclude the Territories, whose representation is in no way governed by section 51, and also British Columbia, in respect to which the Imperial Order in Council admitting the province to the Union provided that its representation should be subject to increase under the terms of the British North America Act, but contained no provision for a reduction of representation. If we proved to be right in either of these contentions, New Brunswick would be entitled to retain its previous representation. It seemed to the Executive Council of this province that this was a proper question to have judicially determined, and I am sure that all would agree that it was eminently proper on the part of your government to submit the case for the consideration of the Supreme Court.

Mr. Justice Mills, who delivered the judgment of the majority of the Supreme Court of Canada, seems to rest his judgment upon the ground that, by the legislation of the Imperial Parliament with reference to Manitoba, and also by the Imperial Orders in Council in respect to the provinces admitted subsequent to Confederation, the British North America Act was made to apply as if they had been in the Union from the beginning. You will readily agree that our government was scarcely prepared to expect that it would be held that the rights of the four original provinces with respect to representation were affected by legislation of the Imperial Parliament and Imperial Orders in Council, passed subsequent to the British North America Act, in respect to which the provinces were in no way consulted and regarding which they had no voice.

Mr. Justice Davies, in his judgment, states that in his opinion there is very much in the argument put forward on behalf of the province. Of course, I do not know upon what ground the Judicial Committee of the Privy Council bases its decision, but the Attorney General informs me that the opinion was expressed by one or more of their Lordships that it was quite competent to make any provision which might be agreed upon for representation of new provinces and to expressly provide that they should not be subject to re-adjustment under the provisions of section 51. If this should be the settled opinion of the Judicial Committee, it will be seen that they take a different view of the ground upon which the case should be decided from that which was taken by a majority of the judges in the Supreme Court of Canada.

I mention these matters in order to show you that the case was by no means free from doubt, and that it was most desirable that it should be submitted to the courts.

Having established, as I have, the fact that it was entirely proper that the province should raise the question, the next point to consider is as to whether the province has a fair and equitable claim upon the Dominion for the payment of the costs.

In determining as to this, it must be borne in mind that the question was as to the constitutionality of a statute of the Federal Parliament, in respect to which many professional men, both in parliament and outside, entertained considerable doubt. Expression was given to this doubt in parliament.

Then, the Supreme Court of Canada left it uncertain whether or not the population of the Territories should be included in interpreting sub-section (4) of section 51. This was admitted by Counsel for Canada in their printed case prepared for the use of the Judicial Committee.

While this particular question would not affect the representation at present, it might in the future, and it was in the interest of the Dominion that it should be settled.

In view of the above, it seems to the Executive Council that the Dominion should pay the costs incurred in having these important questions determined.

L. J. TWEEDIE.

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Enclosure.

OTTAWA, 11th January, 1905.

The Right Honourable Sir Wilfrid Laurier, G.C.M.G., K.C., &c., Prime Minister,
Ottawa.

My dear Sir Wilfrid,—Referring to Mr. Tweedie's letter of 5th November last, which you refer to me (herewith returned), I am unable to see any reason why this government should pay the costs of the Government of New Brunswick upon their unsuccessful contention with respect to the construction of section 51 of the British North America Act. This is not the first case by any means in which questions have arisen between the Dominion and the provinces with regard to the interpretation of the Act of Constitution. There have been of course many such case, all more or less important, and most of them of much greater difficulty than the one in question. Some of these cases have been decided for the Dominion and some for the provinces. In no case, so far as I am aware, has the court directed costs to be paid by any government, and in consequence each government has borne its own costs. There are certainly no reasons in the present case for paying costs to New Brunswick which might not be urged with equal force in every one of the constitutional cases to which I refer by the provinces in whose favour they have been decided, or by the Dominion against the provinces where the decisions have been favourable to the Dominion.

It will be remembered that the Dominion did not seek a judicial interpretation of the statute considering that the interpretation which has been consistently acted upon since Confederation was indisputable and the reference was made only at the urgent request of the provinces. How much there was to justify this is to some extent indicated by the fact that the Judicial Committee after hearing provincial counsel did not consider it necessary to call upon counsel for the Dominion in support of the view upon which this government has acted.

I am clearly of opinion, therefore, that the matter should rest as it has been decided by the courts, each government paying its own costs. It would rather seem in fact that if any claim for costs is to be made it should be made by the Dominion against the provinces, inasmuch as the Dominion has been successful, and the settling of the questions which are said to have been in doubt is perhaps quite as important to the provinces as for the Dominion.

C. FITZPATRICK.

P. C. 486 M.

Certified copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor General on the 28 April, 1905.

The Committee of the Privy Council have had under consideration a communication dated 22nd March, 1905, from the Lieutenant Governor of New Brunswick, enclosing copy of an address of the Legislative Assembly of that Province regarding the representation of New Brunswick in the House of Commons.

The Minister of Justice to whom the matter was referred, observes that the legislature of New Brunswick by this address in effect urges or suggests amendment of the British North America Act in matters affecting the constitution of all the provinces, and the Minister of Justice apprehends that His Excellency's government would not be justified in taking a step in a matter of such grave importance upon the representations of a single province.

The Minister is of opinion that it is incompetent to the Parliament of Canada to make any provisions in the Acts creating new provinces to affect the right of representation of the existing provinces.

The Committee of the Privy Council advise that a copy of this Minute, if approved, be forwarded to the Lieutenant Governor of New Brunswick.

RODOLPHE BOUDREAU,

Clerk of the Privy Council.

SESSIONAL PAPER No. 100

GOVERNMENT HOUSE,

FREDERICTON, N.B., 22nd March, 1905.

The Honourable The Secretary of State, Ottawa.

SIR,—I have the honour to enclose Address of the Legislative Assembly of the province of New Brunswick regarding the representation of the province in the House of Commons, and pray that it may be laid before His Excellency the Governor General in Council as asked.

J. B. SNOWBALL,

Lieutenant Governor.

ADDRESS.

To His Honour, the Honourable Jabez Bunting Snowball, D.C.L., LL.D., Lieutenant Governor of the Province of New Brunswick.

The Humble Address of His Majesty's faithful Commons of the House of New Brunswick:

MAY IT PLEASE YOUR HONOUR:

On the twentieth day of March instant, a Resolution was unanimously passed by the Legislative Assembly of this province in General Assembly convened, as followeth:

Whereas the Judicial Committee of the Privy Council, in its recent decision on the Appeal in the Representation Case, left undecided the question whether in computing the population of Canada, under sub-section (4) of section 51 of The British North America Act, the population of the Territories should be included;

And whereas, in the Imperial Order in Council, providing for the admission of British Columbia as a Province of Canada, and by the statute which created the province of Manitoba, it was provided that the British North America Act, 1867, should apply to them as if they had formed part of the Confederacy as originally constituted, whereby the contention of the government of this province, that, in construing sub-section (4) of section 51 of said Act, the words 'population of Canada' mean the population of the four original provinces, was greatly and unjustly prejudiced;

And whereas the northern boundary of the province of Quebec at Confederation was shown on the authorized maps and was understood and recognized to be the height of land between the waters flowing into the River St. Lawrence and those flowing into Hudson Bay;

And whereas the Parliament of Canada did, by the Act 61 Victoria, Chapter 3, enlarge the limits of the said province of Quebec, by the addition to it of a large area to the northward, (the area at that time being 193,355 square miles), thereby increasing the territory to 351,873 square miles, an increase of 158,518 square miles;

And whereas such Act was passed under the authority of the Imperial Statute, being the British North America Act, 1871, which declares that the Parliament of Canada may, from time to time, with the consent of the Legislature of any province, increase, diminish or otherwise alter the limits of such province, upon such terms and conditions as may be agreed to by the said legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase of diminution or alteration of territory in relation to any province affected thereby;

Therefore it is resolved, 1st. That in the opinion of this House, the earnest attention of the government of Canada should be drawn to the effect of said Order in Council and statute respectively, relating to the admission to the Union of British Columbia and Manitoba, and it should be requested to take such action as may be necessary in order to restore the four original provinces to the position in which they

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would have been but for Orders in Council and legislation passed subsequently to the British North America Act, 1867, in respect to which such provinces were not consulted, and to which they were not parties;

2nd. That in the Act for the creation of the new provinces of Alberta and Saskatchewan, it should not be provided that the British North America Act shall apply to them as if they were in the Union originally, and the rights of the original provinces as to representation should not be affected by the creation of such new provinces.

3rd. That, in justice to the other provinces, particularly New Brunswick, Nova Scotia and Prince Edward Island, which have no opportunity for enlargement of their areas, it should have been provided, and should now be provided, that for the purposes of representation, the boundaries of the province of Quebec, the population of which is the basis of representation, should be deemed to be as they were at the time of Confederation, or that some just and equitable provision should be made to save the other original provinces, and also Prince Edward Island, from loss of representation.'

That, on motion of the Honourable Mr. Tweedie, Premier, it was Resolved that an humble Address be presented to Your Honour, praying that Your Honour would be pleased to cause to be forwarded to the Secretary of State for the Dominion of Canada, a copy of the Resolution passed by the Legislative Assembly of this province on the 20th March instant, relating to the representation of the provinces, with a request that the same might be laid before His Excellency the Governor General.

We therefore humbly pray that Your Honour will be pleased to forward to the Secretary of State a copy of the said Resolution, with a request that a copy of the same may be laid before His Excellency, in compliance with the Resolution passed to that effect.

And as in duty bound will ever pray.

CLIFFORD W. ROBINSON,

Speaker.

P.C. 574 M.

GOVERNMENT HOUSE,

PRINCE EDWARD ISLAND,

CHARLOTTETOWN, 10th May, 1905.

The Honourable The Secretary of State, Ottawa.

SIR,—I am in receipt of a communication from the Clerk of the Legislative Assembly bearing date the ninth instant, enclosing a Message from the Legislature praying His Excellency the Governor General in Council that immediate steps be taken to fulfil the terms of Union with respect to continuous steam communication; also a Message to His Excellency with respect to representation in the Commons, for transmission with the hope that these matters will soon receive a satisfactory solution, and in accordance therewith I enclose these Messages.

D. A. MACKINNON,

Lieutenant Governor.

ADDRESS.

To His Excellency the Right Honourable Sir Albert Henry George, Earl Grey, Viscount Howick, Baron Grey of Howick in the County of Northumberland in the Peerage of the United Kingdom, and a Baronet; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, &c., &c., Governor General in Council.

We, His Majesty's dutiful and loyal subjects the Legislative Assembly of Prince Edward Island in General Assembly convened approach Your Excellency and represent:

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1. That upon the first day of July, 1873, Prince Edward Island entered the Confederation of the Dominion of Canada upon certain terms and conditions set forth in an Order of Her Majesty the Queen in Council, dated 26th June, 1873.

2. That in the said terms and conditions of Union it was expressly stipulated that the Dominion government should assume and defray all the charges for the establishment and maintenance of efficient steam service for the conveyance of mails and passengers between this province and the mainland of the Dominion, winter and summer, so as to place this province in continuous communication with the Intercolonial railway and the railway systems of the Dominion.

3. That previous to and at the time of Confederation this province was in an exceedingly prosperous condition, its customs and excise taxes were low, and its revenues sufficient for the maintenance of its public service, the great obstacle to its further advancement was its isolated condition. In these circumstances the proposition of the Dominion to place the province in continuous communication with the railway system of the Dominion was the strongest inducement to enter Confederation.

4. This stipulation in the contract has never been fulfilled. In the year 1884 a Joint Address of the House of Assembly and the Legislative Council of this province was presented to the Governor General of Canada in Council setting forth the grievances of which this province then complained by reason of the non-fulfilment of the terms of Union. The claim referred to in the said Joint Address was continuously pressed upon the Dominion government up to the year 1901, when it was adjusted so far as the financial loss was concerned by the Dominion government agreeing to pay annually to this province the sum of \$30,000 in settlement of our demands up to that date; but no consideration was given in such settlement to our loss of population which was not disclosed until the completion of the census of 1901.

5. Since 1901 no further improvement has been made in the service; and during these years communication by steamer has been frequently interrupted, notably in 1903 when there was no communication for sixty-four consecutive days; and in the present year of 1905 when there was no communication for fifty-nine consecutive days. The service has been inefficient and not continuous and many and frequent delays have occurred in the transportation of both mails and passengers as shown in the schedule hereto annexed, marked 'A.'

6. That during the periods when steamboat service was interrupted the passengers to and from this province were subjected to great hardship and danger in crossing at 'the Capes' in open boats in the manner practised more than half a century ago; whilst the transport of mails was less efficient than in the early history of this province, inasmuch as the whole of the mails were then carried by the ice-boats at each crossing whilst now and for several years past a large and important part of the mails were not transported but remained to await the resumption of steam communication as is shown in schedule 'B.'

7. That in consequence of the irregular and inefficient winter service incalculable losses have been sustained not only by the people of this province but by all the business houses of Canada having business to transact with Prince Edward Island. Goods in transit of a perishable nature are rendered valueless, other goods by reason of delay are injured in quality or arrive too late to find their market; and the course of business is so seriously disturbed as to cause in too many cases serious financial loss.

8. That the present means of communication are so inefficient as to render it almost impossible to carry on any manufacturing industries that require to import any of their raw material or export their products; and in the past this has had the effect of preventing many such industries being established and has injured and in some instances closed those already existing; and the loss occasioned thereby has been very great. In short the business and social life of the whole country has been practically paralyzed. The strong feeling here aroused by reason of the grievances complained

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of was recently expressed in the Memorial to your government by a delegation representing the Boards of Trade, and the agricultural and commercial interests of this province.

9. It is submitted that the failure to carry out the contract on the part of the Dominion government in respect to continuous communication is responsible in a large measure for the reduction of our population in consequence of which our representation in the Federal Parliament has been reduced thus practically imposing a penalty on this province for what we claim to be the default of the Dominion government, and by the same act lessening our power to work out a remedy.

10. That the establishment and maintenance of efficient and continuous steam communication would result in immense benefits not only to Prince Edward Island but to the other provinces of the Dominion.

11. That continuous communication with the outside world once provided and known to be efficient new industries would soon be established and those now existing would be enlarged thereby affording profitable employment to our people and consequently keeping within the province many who are now obliged to find homes abroad and also tend to direct the tide of immigration to this province.

12. Prince Edward Island being a very large importer of commodities, the most of which are procured from other parts of Canada, we believe it to be the duty of your government, apart from any compact or agreement, in the interests of trade and commerce, to provide such satisfactory transportation facilities as would accommodate the increasing trade which the natural resources of the province and the industry of our people are capable of developing under well established and satisfactory conditions.

13. It is not the province of this legislature to dictate the means by which your government shall carry out the terms of Union in respect to continuous communication' but we desire to press upon you that by the construction of a tunnel under the Straits of Northumberland between the Island and the mainland, the terms and agreement of Union between the Federal government and this province may be carried out and this province may receive the same consideration with regard to intercommunication as the other provinces of the Dominion.

14. And we would further press upon your government that to meet the immediate needs of our people an ice-breaking steamer of much greater power than the present winter boats should be provided with all possible expedition.

15. Wherefor the Legislative Assembly prays that Your Excellency in Council will take the foregoing facts into your most serious consideration and adopt vigorous and immediate measures to remedy the grievances complained of.

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SCHEDULE 'A.'

Record showing number of days on which 'no trip' was made by Steamers '*Minto*' and '*Stanley*' and days on which half trip was mane by one of them only.

1902.	Days.	
December 11 to 18.	8	Half trips only.
1903.		
January 14 and 15.	2	" "
" 19 to 24.	6	" "
" 26 to 31.	6	" "
February 2.	1	" "
" 3 to 10.	8	No trips.
" 11 and 12.	2	Half trips only.
" 13 to 25.	13	No trips.
" 26.	1	Half trip only.
" 27 to March 19.	21	No trips.
March 20 to 21.	2	Half trips only.
" 22.	1	No trips.
" 31.	1	Half trip only.
April 2 and 4.	2	" "
" 7 and 8.	2	No trips.
" 9 and 11.	2	Half trips only.
1904.		
December 12, 13, 14, 18, 24 and 28.	6	" "
1905.		
January 4, 5, 18, 19 and 23.	5	" "
" 24 to March 2.	38	No trips.
March 3 and 4.	2	Half trips only.
" 5 to 12.	8	No trips.
" 13.	1	Half trip only.
" 14 to 16.	3	No trips.
" 17 and 18.	2	Half trips only.
" 19 to 21.	3	No trips.
" 22 and 23.	2	Half trips only.
" 28.	1	No trip.
" 29.	1	Half trip only.
April 4 and 5.	2	No trips.

SUMMARY.

1902 and 1903.—45 days on which no trips were made.
33 days on which half trips only were made.
1904 and 1905.—54 days on which no trips were made.
19 days on which half trips only were made.

SCHEDULE 'B.'

Term:—27th January to 30th March, Capes Ice-Boat Service, 1905.

Dates.	Dates.
January 27.....No mail.	February 28.....No mail.
" 28	March 1....."
" 29	" 2.
" 30.....No mail.	" 3.
" 31.	" 4.
February 1No mail,	" 5.....No mail.
" 2.	" 6.
" 3.	" 7.
" 4.	" 8.....No mail.
" 5.....No mail.	" 9.
" 6.	" 10.....No mail.
" 7.....No mail.	" 11.
" 8....."	" 12.
" 9.	" 13.
" 10.	" 14.
" 11.....No mail.	" 15.
" 12....."	" 16.
" 13"	" 17.
" 14.	" 18.
" 15.	" 19.
" 16.....No mail.	" 20.
" 17.	" 21.
" 18.	" 22.
" 19.....No mail.	" 23.
" 20.	" 24.
" 21.	" 25.
" 22.	" 26.
" 23.	" 27.
" 24No mail.	" 28.....No mail.
" 25....."	" 29.
" 26....."	" 30.
" 27....."	

MEMO.—Last mail per steamer on Georgetown-Pictou route 24th January. First mail by 'Minto' to Georgetown, March 28th.

The ice-boats were not able to take all the mails sent to Tormentine, leaving 100 bags on an average daily. Besides this a large quantity of mail was sent to Pictou from Sackville each day. This was usually books, seeds and heavy matter.

ADDRESS.

To His Excellency the Right Honourable Sir Albert Henry George, Earl Grey, Viscount Howick, Baron Grey of Howick in the County of Northumberland in the Peerage of the United Kingdom and a Baronet; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Governor General of Canada, &c., &c.

We, His Majesty's dutiful and loyal subjects the Legislative Assembly of Prince Edward Island in General Assembly convened approach Your Excellency and represent:

Whereas the Judicial Committee of the Privy Council in its recent decision on the appeal of this province against the judgment of the Supreme Court of Canada, given on the 4th day of November, decided that the representation of this province in the Federal government was liable under the British North America Act, 1867, and the amendments thereto and the terms of Union under which this province entered Confederation, to be reduced below six the number granted to this province by the terms of Union.

And whereas under 'An Act Respecting the Establishment of Provinces in the Dominion of Canada of 1871' it was provided by section 2 that 'The Parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may at the time of such establishment make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province, and for its representation in the said Parliament.' And also by section 3 'The Parliament of Canada may from time to time with the consent of the legislature of any province of the said Dominion increase, diminish or otherwise alter the limits of such province upon such terms and conditions as may be agreed to by the said legislature, and may with the like consent make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any province affected thereby.'

And whereas it appears by the correspondence and negotiations between your government and this province prior to Prince Edward Island entering the Union this province was led to believe that its representation should not be decreased below six but that it should be entitled under the terms of the 'British North America Act' of 1867, to be increased should the population justify such increase under the provisions of the Act.

And whereas the representation of this province has by the provisions of the Statute of the Dominion passed in 1901 been reduced to four.

And whereas the area of the province of Quebec, which by the terms of the 'British North America Act' was made the pivotal province to regulate the number of members representing the different provinces has under the terms of the said Act of 1871 been increased to the extent of 158,000 square miles.

And whereas by the settlement of the territory thus added to the original area of the province of Quebec the population of that province will be greatly increased and the unit of population proportionately raised thereby tending further and continuously to reduce the representation of this province until in course of time it may cease to be represented.

And whereas it is contrary to the spirit of Confederation and to the intention of the contract of Union entered into by the province that its right to adequate representation in the Federal parliament should be diminished or lost and that it should thus be treated not as an organized province having rights as a province apart from the question of population but as if it were unorganized territory.

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And whereas the failure of this province to retain its proper proportion of the natural increase of its population has been largely owing to the changed condition brought about by Confederation and to the nonfulfilment by the government of Canada of the terms of Union in respect to continuous communication between this province and the mainland of Canada.

Be it therefore resolved that in the opinion of this House the earnest attention of the government of Canada should be drawn to the serious position which now confronts this province and that it be urged as strongly as possible upon the government of Canada that some just and equitable provision in accordance with the true intent and meaning of the contract of Union should be made to restore to this province its original representation.



